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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,151	12/19/2001	Ertugrul Berkcan	RD-28,476	8199
7590 John S. Beulick Armstrong Teasdale LLP One Metropolitan Square Suite 2600 St. Louis, MO 63102-2740			EXAMINER KARLSEN, ERNEST F	
			ART UNIT 2829	PAPER NUMBER
			MAIL DATE 01/27/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/026,151

Applicant(s)

BERKCAN ET AL.

Examiner

ERNEST F. KARLSEN

Art Unit

2829

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 7, 9-13, 16, 17, 19-24, 26 and 28-31 is/are pending in the application.
- 4a) Of the above claim(s) 9, 19, 21-24, 26, 28 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 10-13, 16, 17, 20, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claims 1-3, 6, 7, 9-13, 16, 17, 19-24, 26 and 28-31 are pending.

Claims 4, 5, 8, 14, 15, 18, 25 and 27 are cancelled.

Claims 1-3, 6, 7, 10-13, 16, 17, 20, 30 and 31 are active.

Claims 9, 19, 21-24, 26, 28 and 29 are withdrawn.

Claims 9, 19, 21-24, 26, 28 and 29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and/or species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on December 21, 2006.

The amendment filed August 2, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: All of the proposed changes to the specification and drawings is considered to introduce new matter. There is no original support for the proposed changes to the drawings or specification. As originally filed Figure 2 of the drawings had an upper portion with part numbers and a lower portion without part numbers. The lower part had no showing of any sensor elements in slot 32. Applicants now present a specific location and orientation for elements 12 in the lower portion. No such information was previously presented and the Examiner considers such information in the drawings and specification to be new matter. The details proposed for Figure 4 were not present in the original disclosure. The proposed change to the drawings is not approved because it is considered to contain new matter.

Applicants argue that their amendments to the specification and drawings merely clarify. The Examiner considers the additions to introduce relationships not previously present. The orientation of the Hall sensors in the slot of the conductor was not previously present. The connections of amended Figure 4 were not previously present.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claims 1-3, 6, 7, 10-13, 16, 17, 20, 30 and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants have taken scaling relationships from the drawings and incorporated them into the claims. Section 2125 of the M.P.E.P. states: "proportions of features in a drawing are not evidence of actual proportions when drawings are not to scale". Scaling cannot be taken from the drawings and incorporated into the specification or claims unless it is stated in the specification that the drawings are to scale. Addition of scaling features to the specification or claims where the drawings are not stated to be drawn to scale is considered new matter. Applicants have added limitations directed to scaling features to the claims which is improper when the drawings are not stated to be drawn to scale. As originally disclosed the Hall devices only had one output each not two. There is no original disclosure as to how the first and second outputs of each of the Hall devices would be combined so that one of the outputs is reduced.

Claims 1-3, 6, 7, 10-13, 16, 17, 20, 30 and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear how each of the Hall effect devices can produce first and second outputs which can be combined so that the second output is reduced. It is not clear from the original disclosure how the sensor is positioned in the slot in the conductor.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6,7,10-13, 16,17, 20,30 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Ladds. In Ladds, Figure 4 (See the Office Action of January 3, 2008) shows the position of devices H1 and H2 relative to conductors A and B. Presumably H1 is at position 1 and H2 is at position 2. Ladds indicates that H1 and H2 could be positioned in various ways but seems to like the arrangement of Figure 4 best. The Examiner notes that the assembly of H1 and H2 could be rotated to any position about point 3 of Ladds Figure 2 and still be properly operational. Note that in Ladds, Figure 2, the arrow at position 1 is down and the arrow at position 2 is up. Ladds subtracts the output of H1 from H2 or vice versa to obtain 2 times the desired signal and cancellation of undesirable signals. The whole specification of Ladds is of interest.

Further note that if the support for H1 and H2 of Figure 2 were rotated 90 degrees H1 and H2 would still be responding to up and down fields and that is why Ladds encompasses plural locations for the support (an IC package) for H1 and H2. The scaling limitations are considered present in Figures 7 and 8 of Ladds.

Applicants have argued that Ladds does not disclose a residential meter. Note that Ladds indicates that his device can be used in wattmeter or power meter. See the first 10 lines of column 1. Ladds does have a conductor with an aperture in it.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernest F. Karlsen whose telephone number is 571-272-1961. The examiner can normally be reached on 8 hrs. Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ha Nguyen can be reached on 571-272-1678. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ernest F. Karlsen/
Primary Examiner, Art Unit 2829